

# EXHIBIT 3

# Notice of Allowability

Application No.

10/028,286

Examiner

Jordan Hamann

Applicant(s)

SAINT-HILAIRE ET AL.

Art Unit

2616

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to Amendment filed 18 May 2006.
2. ☒ The allowed claim(s) is/are 1,3,4,6-13,15-21,24-31,33-41 and 43-56.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All b) ☐ Some\* c) ☐ None of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

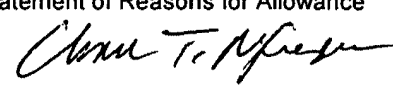
Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
  - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
    - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
  - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

## Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date \_\_\_\_\_
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date \_\_\_\_\_
7. ☒ Examiner's Amendment/Comment
8. ☐ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_

  
CHAU NGUYEN  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2600

### DETAILED ACTION

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Victoria Donnelly on 23 May 2006.

The application has been amended as follows: in claim 33, line1, "claim 32" has been changed to —claim 31--.

2. Claims 1, 3-4, 6-13, 15-21, 24-31, 33-41 and 43-56 are allowed.
3. Claims 22, 23 and 57-59 have been canceled.
4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.
5. Wacławsky (US 6,449,255 B1) discloses a method and apparatus for managing packets using a real-time feedback signal.
6. Tancevski (US 6,728,212 B1) discloses a method and apparatus for scheduling the flow of packets by monitoring buffer occupancy of one of a plurality of schedulers and redirecting a packet to a scheduler with a buffer occupancy below a threshold.
7. Lo (US 5,559,801) discloses a packet sampling scheduler.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jordan Hamann whose telephone number is (571) 272-

Art Unit: 2616

8564. The examiner can normally be reached on Monday-Thursday 8:30-5:30 and alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chau Nguyen can be reached on (571) 272-3126. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JJH

<b>Notice of References Cited</b>	Application/Control No. 10/028,286		Applicant(s)/Patent Under Reexamination SAINT-HILAIRE ET AL.	
	Examiner Jordan Hamann		Art Unit 2616	Page 1 of 1

**U.S. PATENT DOCUMENTS**

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Name	Classification
*	A	US-5,559,801	09-1996	Lo, William	370/412
*	B	US-6,449,255	09-2002	Waclawsky, John G.	370/236
*	C	US-6,728,212	04-2004	Tancevski, Ljubisa	370/235
	D	US-			
	E	US-			
	F	US-			
	G	US-			
	H	US-			
	I	US-			
	J	US-			
	K	US-			
	L	US-			
	M	US-			

**FOREIGN PATENT DOCUMENTS**

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Country	Name	Classification
	N					
	O					
	P					
	Q					
	R					
	S					
	T					

**NON-PATENT DOCUMENTS**

*		Include as applicable: Author, Title Date, Publisher, Edition or Volume, Pertinent Pages)
	U	
	V	
	W	
	X	

\*A copy of this reference is not being furnished with this Office action. (See MPEP § 707.05(a).)  
Dates in MM-YYYY format are publication dates. Classifications may be US or foreign.

<b>Examiner-Initiated Interview Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/028,286	SAINT-HILAIRE ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Jordan Hamann	2616	

**All Participants:**

(1) Jordan Hamann.

(2) Victoria Donnelly.

**Status of Application:** Amended after non-final office action

(3) \_\_\_\_\_

(4) \_\_\_\_\_

**Date of Interview:** 17 May 2006

**Time:** 10:15am

**Type of Interview:**

☒ Telephonic

☐ Video Conference

☐ Personal (Copy given to: ☐ Applicant ☐ Applicant's representative)

**Exhibit Shown or Demonstrated:** ☐ Yes ☒ No

If Yes, provide a brief description:

**Part I.**

Rejection(s) discussed:

Claims discussed:

1,2,19,22,23,26,29,31,57-59

Prior art documents discussed:

Waclawsky (US 6,449,255 B1)

**Part II.**

SUBSTANCE OF INTERVIEW DESCRIBING THE GENERAL NATURE OF WHAT WAS DISCUSSED:

See Continuation Sheet

**Part III.**

☐ It is not necessary for applicant to provide a separate record of the substance of the interview, since the interview directly resulted in the allowance of the application. The examiner will provide a written summary of the substance of the interview in the Notice of Allowability.


☐ It is not necessary for applicant to provide a separate record of the substance of the interview, since the interview did not result in resolution of all issues. A brief summary by the examiner appears in Part II above.

Jordan Hamann

(Examiner/SPE Signature)

(Applicant/Applicant's Representative Signature – if appropriate)

Continuation of Substance of Interview including description of the general nature of what was discussed: Examiner proposed amendment to put application in condition for allowance. Add claim 2 to claim 1, add claim 32 claim 31, and delete "any one of". Cancel claims 22, 23 and 57-59. Delete "adapted to" from all claims in which it appears. Agent agreed to make proposed changes by a supplementary amendment..

<b>Issue Classification</b> 	<b>Application/Control No.</b> 10/028,286	<b>Applicant(s)/Patent under Reexamination</b> SAINT-HILAIRE ET AL.
	<b>Examiner</b> Jordan Hamann	<b>Art Unit</b> 2616

ISSUE CLASSIFICATION												
ORIGINAL					INTERNATIONAL CLASSIFICATION							
CLASS		SUBCLASS			CLAIMED					NON-CLAIMED		
370		241			H	04	L	12	/26			/
CROSS REFERENCES					H	04	L	12	/56			/
CLASS	SUBCLASS (ONE SUBCLASS PER BLOCK)				H	04	F	11	/00			/
370	412	468							/			/
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Jordan Hamann 5/23/06 (Assistant Examiner) (Date)	<i>Chau T. Nguyen</i> <b>CHAU NGUYEN</b> <b>SUPERVISORY PATENT EXAMINER</b> (Primary Examiner) (Date)	<b>Total Claims Allowed: 49</b>
<i>[Signature]</i> Legal Instruments Examiner (Date)	O.G. Print Claim(s) 1	O.G. Print Fig. 1

<input type="checkbox"/> Claims renumbered in the same order as presented by applicant				<input type="checkbox"/> CPA				<input type="checkbox"/> T.D.				<input type="checkbox"/> R.1.47			
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**Jordan Hamann**

2616

[illegible]

INTERFERENCE SEARCHED			
Class	Subclass	Date	Examiner
See search history printout			

SEARCH NOTES (INCLUDING SEARCH STRATEGY)		
	DATE	EXMR
370/395.4-395.43 (text search only-see search history printout)	1/3/2006 <i>Updated JJH 5/18/06</i>	JJH
370/428-429 (text search only-see search history printout)	1/3/2006	JJH
370/468 (text search only-see search history printout)	1/3/2006	JJH
370/412 (text search only-see search history printout)	1/3/2006	JJH
370/241 (text search only-see search history printout)	5/8/2006	JJH
709/223-225 (text search only-see search history printout)	5/8/2006	JJH

# Index of Claims



Application/Control No.

10/028,286

Examiner

Jordan Hamann

Applicant(s)/Patent under Reexamination

SAINT-HILAIRE ET AL.

Art Unit

2616

✓	Rejected
=	Allowed

—	(Through numeral) Cancelled
÷	Restricted

N	Non-Elected
I	Interference

A	Appeal
O	Objected

Claim		Date						
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